IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 717 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MANOJ HIRALAL YADAV

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 717 of 2003

MR NM KAPADIA for Petitioner No. 1

Mr V M Pancholi, APP for Respondent No. 1

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 21/07/2003

ORAL JUDGEMENT

Rule. Mr V M Pancholi, learned APP appears and waives service of notice of rule for the State of Gujarat. The Muddamal jaggery of the petitioner was

seized in connection with Prohibition C.R. No.620/2003. The petitioner approached the trial court for interim custody thereof. The trial court directed that the muddamal jaggery be entrusted to the petitioner by way of interim order on furnishing solvent surety and P.R. of Rupees One Lakh and Fifty thousand. Other conditions have also been laid in order dated 12.6.2003. The State of Gujarat preferred Criminal Revision being Criminal Revision Application No.212/2003 before the Sessions Court. The learned Sessions Judge heard the parties and dismissed the said revision application and confirmed the order of the learned Magistrate. However, the learned Sessions Judge further directed that the petitioner shall deposit an amount of Rs.50,000/- in cash before the trial court and thereafter the said amount be placed in Fixed Deposit. This order was passed on 7.7.2003. Feeling aggrieved by the judgment and order of the Sessions Court, the petitioner has preferred this petition before this Court under Article 227 of the Constitution of India. It has been contended here that when surety was supplied, it was not necessary to direct the petitioner to deposit cash of Rs. 50,000/-. On hearing, it is found that when security of sufficient amount was laid before the trial court, it was not necessary for the Sessions Court to add a condition of cash deposit of Rs.50,000/-. In above view of the matter, the order of the Sessions Court is required to be modified to the extent of its direction to deposit cash amount of Rs.50,000/-.

2. For the foregoing reasons, this petition is allowed. The order of the Sessions Court directing deposit of Rs.50,000/- is quashed. Learned APP has requested that the petitioner be directed to see that the muddamal jaggery is not used or consumed within the State of Gujarat. Learned Advocate for the petitioner states that such an order has been passed by the trial court and he agrees that the muddamal jaggery shall not be used or consumed within the State of Gujarat. Therefore, it is made clear that the petitioner shall not use or consumed the muddamal jaggery within the State of Gujarat. The petition is allowed accordingly. Rule is made absolute to the above extent. D.S permitted.

[D P Buch, J.]

msp